

CITY COUNCIL PROCEEDINGS

AGENDA ITEM:

SEPTEMBER 26, 2011

1. Following the Pledge of Allegiance, a regular meeting of the City Council of the City of St. Cloud, Minnesota, was held on September 26, 2011 at 6 p.m. in the City Council Chambers.
2. A Moment of Silence for our men and women serving in the Armed Forces.
3. All Council members were present: Berg, Goerger, Gohman, Hontos, Johnson, Libert, and Masters.

CONSENT AGENDA:

4. **APPROVAL OF AGENDA.** ACTION TAKEN: Agenda approved with two additional requests: Councilmember Hontos requested to discuss an issue from the past Study Session held September 19, 2011; and Councilmember Berg requested to discuss the "Resolution Establishing a Complete Streets Policy for St. Cloud, Minnesota" under Old Business - Item 37.

5. **APPROVAL OF THE MEETING MINUTES AND SUMMARY OF PROCEEDINGS OF THE REGULAR CITY COUNCIL MEETING HELD AUGUST 22, 2011.** ACTION TAKEN: Approved.

6. **RESOLUTION AUTHORIZING THE RENEWAL OF THE CITY'S PROPERTY, CASUALTY, AUTOMOBILE AND WORKERS' COMPENSATION INSURANCE PROGRAM FOR THE PERIOD OF OCTOBER 1, 2011 TO SEPTEMBER 30, 2012.** ACTION TAKEN: Councilmember Goerger removed this item for separate discussion. Goerger moved approval of the resolution, and Masters seconded the motion. Goerger questioned the statement in Mahowald's memo that said City owned property values increased by \$12+ million. Bob Mahowald addressed the Council and explained that the dollar figure included the value of reconstruction properties and the purchase of additional properties. Goerger also cited a typo (see packet page 6-3—Mahowald's letter dated September 21, 2011- Item #2, Liquor Liability -- the premium **increased** \$393, not decreased.) Following discussion, the motion unanimously carried. The adopted resolution was assigned number 2011-9-129

7. **APPLICATION FOR AN ON-SALE INTOXICATING AND SPECIAL SUNDAY LIQUOR LICENSE FOR BIOLOGY, LLC (CHARLES SEVERSON) DBA BIOLOGY 701, 701 WEST ST. GERMAIN, SUITE 100.** ACTION TAKEN: A public hearing was set for October 10, 2011.

8. **APPLICATION FOR THE TRANSFER OF AN ON-SALE INTOXICATING AND SPECIAL SUNDAY LIQUOR LICENSE FROM BULL ELK ENTERPRISES INC., DBA GRIZZLY'S GRILL, 4101 WEST DIVISION STREET, SPACE E-14 TO SWEET GRASS VENTURES LLC DBA THE BOULDER TAP HOUSE & GRILL, 3950 2ND STREET SOUTH.** ACTION TAKEN: A public hearing was set for October 10, 2011.

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9. **APPLICATION FOR AN ON-SALE INTOXICATING AND SPECIAL SUNDAY LIQUOR LICENSE FOR THE AFTER MIDNIGHT GROUP V, LLC, DBA COWBOY JACK'S, 506 ST. GERMAIN STREET.** ACTION TAKEN: A public hearing was set for October 10, 2011.

10. **RESOLUTION ADOPTING THE HEARING OFFICER'S FINDINGS OF FACT, CONCLUSION, AND RECOMMENDATION REGARDING VIOLATIONS OF THE LANDLORD RESPONSIBILITY ORDINANCE, SECTION 1051, CONCERNING RENTAL PROPERTY LOCATED AT 398 2ND AVENUE SOUTH, ST. CLOUD, MINNESOTA.** ACTION TAKEN: Goerger removed this item for separate discussion. Goerger moved approval of the resolution, and Gohman seconded the motion. Goerger asked City

Attorney Matt Staehling whether other costs could be assessed to this property. City Attorney Staehling gave a brief overview of the violation process (1<sup>st</sup> – 4<sup>th</sup> violations) and the corresponding penalty/fines for each. Following discussion, the motion unanimously carried. The adopted resolution was assigned number 2011-9-130.

**11. RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A JOINT POWERS AGREEMENT WITH THE MINNESOTA DEPARTMENT OF PUBLIC SAFETY - BUREAU OF CRIMINAL APPREHENSION IN ORDER TO ACCESS CRIMINAL JUSTICE INFORMATION SERVICES.** ACTION TAKEN: Resolution adopted and assigned number 2011-9-131.

**12. ST. CLOUD RIVER'S EDGE CONVENTION CENTER EXPANSION PROJECT. (A) RESOLUTION AUTHORIZING PROJECT CHANGE ORDERS #77-#142; APPROVING ADDITIONS TO THE PROJECT ARCHITECT'S CONTRACT AND APPROVING FF&E CONTRACTS; AND (B) RESOLUTION SUPPORTING AN APPLICATION FOR STATE BONDING FUNDS FOR THE COMPLETION OF THE RIVER'S EDGE CONVENTION CENTER EXPANSION PROJECT.** ACTION TAKEN: Resolutions adopted and assigned numbers 2011-9-132 and 2011-9-133 respectively.

**13. RESOLUTION ACCEPTING BIDS AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONSTRUCTION CONTRACT WITH GRANITE CITY ROOFING FOR THE WHITNEY CENTER REROOFING PROJECT.** ACTION TAKEN: Goerger removed this item for separate discussion. Goerger moved approval of the resolution, and Berg seconded the motion. Goerger asked about project savings. Community Services and Facility Director Lyle Mathiasen stated that the monies would go back to the CDBG funds. He also introduced Ms. Laura Hood, the new Aging Services Director at the Whitney Senior Center. The motion unanimously carried. The adopted resolution was assigned number 2011-9-134.

**14. APPROVAL OF UPDATED PUBLIC UTILITIES DEPARTMENT JOB DESCRIPTIONS.** ACTION TAKEN: Goerger removed this item for a separate discussion. Goerger moved to approve the updated job descriptions as submitted, and Masters seconded the motion. Goerger asked for clarification on a specific job function that would now be deleted. City Attorney Matt Staehling and Public Services Director Pat Shea weren't familiar with the particular function noting the job descriptions were created back in 1976. The motion to approve the updated job descriptions unanimously carried.

**15. RESOLUTION AUTHORIZING ISSUANCE AND SALE OF \$1,635,000 GENERAL OBLIGATION TAX INCREMENT REFUNDING BONDS, SERIES 2011B.** ACTION TAKEN: Resolution adopted and assigned number 2011-9-135.

**16. RESOLUTION AUTHORIZING ISSUANCE AND SALE OF \$1,015,000 GENERAL OBLIGATION EQUIPMENT CERTIFICATES OF INDEBTEDNESS, SERIES 2011A.** ACTION TAKEN: Resolution adopted and assigned number 2011-9-136.

**17. RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO PURCHASE FIVE 2011 FORD CROWN VICTORIA POLICE INTERCEPTOR MARKED PATROL CARS AND ONE 2011 FORD EXPEDITION 4X4 XLT SUV.** ACTION TAKEN: Resolution adopted and assigned number 2011-9-143 (resolution number recorded out of sequence).

**18. APPROVE THE REPLACEMENT OF TWO FIRE DEPARTMENT SUPPORT VEHICLES.** ACTION TAKEN: Approved.

**19. APPROVE THE PURCHASE OF A NEW RESCUE BOAT AND EQUIPMENT FOR THE FIRE DEPARTMENT IN AN AMOUNT NOT TO EXCEED \$29,300. ACTION TAKEN:** Approved.

**20. APPROVAL OF REVISED DEVELOPMENT AGREEMENT FOR THE ST. CLOUD I-94 BUSINESS PARK. ACTION TAKEN:** Hontos pulled this item for a separate discussion and moved approval of the revised agreement as submitted; Johnson seconded the motion. Hontos asked whether St. Cloud Opportunities supports the revised agreement and suggested that such information be provided with packet materials. Community Development Director Glaesman confirmed that both the EDA and St. Cloud Opportunities have agreed upon the revised agreement. The motion approving the revised agreement unanimously carried.

**21. ORDINANCE AMENDING ARTICLE 15 - ON SITE DEVELOPMENT STANDARDS TO ALLOW NON-COMMERCIAL WIRELESS COMMUNICATION TOWERS WITHIN ALL OF THE CITY'S RESIDENTIAL DISTRICTS. (LDC-2011-03) ACTION TAKEN:** A reading and public hearing was set for October 10, 2011. (Proposed Ordinance 2011-20)

**22. (A) ORDINANCE REZONING PROPERTY LOCATED AT 21 24TH AVENUE SOUTH FROM R2, SINGLE FAMILY AND TWO FAMILY RESIDENTIAL DISTRICT TO C5, HIGHWAY COMMERCIAL DISTRICT. (LOCATION: 21 24TH AVENUE SOUTH) (REZ-2011-07) ACTION TAKEN:** A reading and public hearing was set for October 10, 2011. (Proposed Ordinance 2011-21)

**22. (B) RESOLUTION AMENDING THE 2003 COMPREHENSIVE PLAN FUTURE LAND USE MAP FROM LOW DENSITY RESIDENTIAL TO COMMERCIAL FOR THE PROPERTIES LOCATED AT 20 AND 30 25TH AVENUE SOUTH AND 11 AND 21 24TH AVENUE SOUTH. (CPA-2011-05) ACTION TAKEN:** A public hearing was set for October 10, 2011.

**22. (C) ORDINANCE VACATING A14' WIDE ALLEY LOCATED BETWEEN LOTS 1 THRU 6 AND NORTH HALF OF LOT 7 AND THE NORTH 3' OF LOT 25 AND LOTS 26 THRU 32, BLOCK 5, COLONIAL GARDENS ADDITION. (LOCATION: 20 25TH AVENUE SOUTH; 9, 11, & 21 24TH AVENUE SOUTH; AND 2400 & 2424 DIVISION STREET). (VAC-2011-04) ACTION TAKEN:** Set reading and public hearing for October 10, 2011. (Proposed Ordinance 2011-22)

**23. ORDINANCE AMENDING ARTICLE 12 - OVERLAY DISTRICTS AND DESIGNATED AREAS, SECTION 12.1, B., 2., A., I. AND SECTION 12.1, B., 2., C. OF THE ST. CLOUD LAND DEVELOPMENT CODE RELATED TO FLOOD INSURANCE STUDIES, FLOOD BOUNDARY AND FLOODWAY MAPS FOR STEARNS COUNTY PORTION OF ST. CLOUD. ACTION TAKEN:** A reading and public hearing was set for October 10, 2011.

**24. ORDINANCE VACATING A ROADWAY AND UTILITY EASEMENT LOCATED BETWEEN THE FORMER SAM'S CLUB PARKING LOT AND DIVISION STREET. (LOCATION: 3601 2ND STREET SOUTH) (VAC-2011-05) ACTION TAKEN:** Set reading and public hearing for October 10, 2011.

**25. REQUEST EXEMPTION FROM THE CITY NOISE ORDINANCE FOR CREEKSIDE SOILS TO ALLOW THE COOPERATIVE OPERATION OF THE CITY COMPOST SITE. ACTION TAKEN:** Approved.

26. **ACCEPTANCE OF PROPOSALS FOR SIDEWALK SNOW REMOVAL SERVICES FOR THE PERIOD OF NOVEMBER 1, 2011, THROUGH MAY 1, 2012.** ACTION TAKEN: Approved.

27. **AGREEMENTS FOR RENTAL OF SNOW REMOVAL EQUIPMENT FOR THE STREET DIVISION AND AIRPORT DIVISION FOR THE 2011-2012 YEAR.** ACTION TAKEN: Approved.

28. **APPROVAL OF TASK ORDER #1 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN MEAD & HUNT, INC. AND THE CITY OF ST. CLOUD TO PROVIDE SERVICES FOR THE AIRPORT MASTER PLAN UPDATE AT THE ST. CLOUD REGIONAL AIRPORT.** ACTION TAKEN: Approved.

29. **APPROVAL OF TASK ORDER #2 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN MEAD & HUNT, INC. AND THE CITY OF ST. CLOUD TO PROVIDE SERVICES FOR THE RUNWAY GUARD LIGHT DESIGN AT THE ST. CLOUD REGIONAL AIRPORT.** ACTION TAKEN: Approved.

**OPEN FORUM:** No one spoke.

**PUBLIC HEARINGS:**

30. **RESOLUTION ORDERING REPLACEMENT OR REPAIR OF DEFECTIVE SIDEWALKS IN THE CENTRAL BUSINESS DISTRICT.** City Engineer Steve Foss gave a brief overview of the defective sidewalks listed in the 2011 Central Business District Sidewalk Condemnation List. City Council President John Libert opened the public hearing. No one spoke. The public hearing was closed. It was moved by Councilmember Berg, seconded by Councilmember Goerger, to approve the resolution as submitted. The motion carried unanimously by a roll call vote. The adopted resolution was assigned number 2011-9-137.

31. **AN ORDINANCE AMENDING SECTION 440:00 SUBDIVISION 2 (REGULATION OF FOOD AND BEVERAGE ESTABLISHMENTS, CATERING, RETAIL FOOD SERVICE, AND VENDING MACHINES), SECTION 440:10 (SIDEWALK CAFÉS), SECTION 440:25 (COMPLIANCE PROCEDURES), SECTION 635:50 (USES IN THE CENTRAL BUSINESS DISTRICT), SECTION 800 (3.2 PERCENT MALT LIQUOR), SECTION 810:05, SUBDIVISION 7 (SIDEWALK CAFÉS), AND SECTION 810:05, SUBDIVISION 9 (SEASONAL OUTDOOR SALES), SECTION 511 (LIQUOR LICENSING FEES), AND SUBDIVISION 512 (FOOD ESTABLISHMENTS LICENSES AND PERMITS) OF THE 2007 CODE OF ORDINANCES RELATED TO UTILIZATION OF DOWNTOWN SIDEWALKS.** Community Development Director Matt Glaesman gave a brief overview of the draft ordinance that streamlines the process to allow sidewalk cafes and authorized businesses to provide food and liquor within the sidewalk by an adjacent licensed food/liquor establishment. Businesses would continue to maintain set design and set standards. The changes are intended to create/promote vitality in our downtown district. City Council President Libert opened the public hearing. No one spoke. The public hearing was closed. It was moved by Councilmember Goerger, seconded by Councilmember Berg, to adopt the ordinance as submitted. Berg encouraged the City to maintain safeguards within the Central Business District. Hontos indicated his support for the proposed ordinance. He asked about the

language in SUBD 3. PORTABLE FACILITIES AND USES; ITEM 2, that speaks to alignment and maintaining access across the public sidewalk the full width of the contiguous property. City Engineer Steve Foss confirmed that the 4 ft. pathway would not need to form a contiguous straight alignment, but rather meet at a common point. The motion to adopt the ordinance unanimously carried. The adopted Ordinance was assigned number 2507.

32. **RESOLUTION ADOPTING THE CITY OF ST. CLOUD COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM YEAR 2010 CONSOLIDATED HOUSING AND COMMUNITY DEVELOPMENT ANNUAL EVALUATION REPORT (CAPER).** Community Development Director Matt Glaesman provided a schematic on the overhead listing the projected PY2010 CDBG annual evaluation report. He stated that senior planner Tammy Campion is the designated staff member working with CDBG consolidated plan. Council President Libert opened the public hearing. No one spoke. The public hearing was closed. It was moved by Councilmember Berg, seconded by Councilmember Masters, to approve the resolution as presented. The motion unanimously carried. The adopted resolution was assigned number 2011-9-138.

33A. **(A) RESOLUTION APPROVING THE ALIGNMENT FOR THE BEAVER ISLAND TRAIL PHASE #4 IMPROVEMENTS AND AUTHORIZING THE ACQUISITION OF RIGHT-OF-WAY AND CONSTRUCTION EASEMENTS.** Park and Recreation Director Scott Zlotnik provided a schematic on the overhead of the preferred project alignment for the Beaver Island Trail Phase 4 Improvements in South St. Cloud. The project would connect the existing Beaver Island Trail southern end located at 33<sup>rd</sup> Street south to River Bluffs Regional Park located at 38<sup>th</sup> Street South. He further discussed other alternatives and the necessary acquisition of right-of-way and easements for the project and reviewed the City's Capital Improvement Plan for 2012 for construction in 2012-2013. Council President Libert opened the public hearing. No one spoke. The public hearing was closed. The following people spoke:

**Brenda Graves, 878 Pearl View Drive, Sauk Rapids;** spoke on behalf of the Natural Park and Trails Coalition. She stated that the organization supports the proposed alignment and asks that the City move forward on purchasing the adjoining areas that contain significant prairie remnant in the City as well as oak forest. She noted that members of the Natural Parks and Trails Coalition are comprised of members of the Central Minnesota Audubon Society, the League of Women Voter of the St. Cloud area, the Nordic Ski Club of Central Minnesota, the St. Cloud Area Environmental Council, the Sierra Club-Big River Group, and other interested citizens.

**Lois Campbell (Mrs. John Campbell), 4491 64<sup>th</sup> Street SE;** she and her husband do not desire to split the property. The railroad grade property is just a small portion. It is their intent to sell the additional 35 acres of adjacent land (owned by the family) at the same time.

There being no one else wishing to speak, the public hearing was closed. It was moved by Hontos, seconded by Masters, to approve the resolution as submitted. Hontos indicated the importance of notifying the affected property owners so they are fully aware of proposed projects. Park Director Zlotnik confirmed that the legal process was followed and all adjacent property owners were invited to attend the public hearing and were mailed a preferred trail alignment map. Councilmember Masters noticed landowner Leigh Lenzmeier in the audience

and questioned whether he had any objections with the easement going across his property. Leigh Lenzmeier addressed the Council and stated that he had no objection. There was a brief discussion regarding plans for County Road 75/Roosevelt Road being reconstructed in 2013. Following discussion, the motion unanimously carried. Resolution adopted and assigned number 2011-9-139.

33B. **(B) RESOLUTION REQUESTING FUNDING ASSISTANCE FROM THE MNDNR UNDER THE LEGACY TRAIL GRANT PROGRAM.** Councilmember Goerger moved approval of the resolution; Councilmember Berg seconded the motion. The motion unanimously carried. The adopted resolution was assigned number 2011-9-140.

**OLD BUSINESS:**

34. **RESOLUTION CERTIFYING CERTAIN DELINQUENT WATER, SEWER AND REFUSE CHARGES TO THE COUNTY AUDITOR FOR COLLECTION WITH TAXES PAYABLE IN 2012.** City Clerk Gregg Engdahl reported that following the public hearing held on September 12, 2011, city staff met with those individuals who spoke at the public hearing with special requests regarding their assessments. The negotiated assessments for those individuals along with removal of several tax forfeited properties were included in the Council packet. It was moved by Councilmember Goerger, seconded by Councilmember Masters, to approve the resolution. The motion unanimously carried. The adopted resolution was assigned number 2011-9-141.

35. **CERTIFICATION OF DELINQUENT NUISANCE ABATEMENT CHARGES FOR 314 WILSON AVE NE TO THE COUNTIES FOR COLLECTION WITH TAXES PAYABLE IN 2012.** Health Director Lisa Schreifels requested approval of the resolution as submitted. She said that an additional review of the property file (314 Wilson Avenue NE) confirms the recommendation that the original assessment amount to be placed on the assessment rolls for certification to the county. It was moved by Councilmember Goerger, seconded by Councilmember Gohman, to approve the resolution. The motion unanimously carried. The adopted resolution was assigned number 2011-9-142.

36. **CITY COUNCIL REQUESTED DISCUSSION ITEM - BEAVER ISLAND TRAIL PHASE #3 IMPROVEMENTS.** Council President Libert announced that city staff is requesting that the Council table the Beaver Island Trail Phase #3 Improvements issue to a future meeting to allow city staff the time to gather professional property appraisal estimates, investigate current easements through title search, and for consultants to tabulate new construction cost estimates and drawings. Councilmember Gohman said that she and the other Council members were invited to meet with the residents of Rivers Edge Condominiums at their condo site. After viewing the area, she found the proposed Beaver Island Trail extension plan to be unacceptable and not a viable option. It was moved by Councilmember Gohman, seconded by Councilmember Goerger, to remove Option#1 (approved on September 12, 2011 as the new preferred alignment providing access to the river) from any further consideration. The motion unanimously carried.

37. **ADD-ON:** (OLD BUSINESS ITEM) (Requested by Councilmember Berg) – **RESOLUTION ESTABLISHING A COMPLETE STREETS POLICY FOR ST. CLOUD, MINNESOTA.** Councilmember Berg announced that she was absent for the vote taken on September 12, 2011, when the “Resolution Establishing a Complete Streets Policy for St. Cloud, Minnesota” failed by a 3-3 vote. Since she fully supports the proposed policy, Berg made a motion to “reconsider” the resolution. Councilmember Masters seconded the motion. The motion carried by a 4-3 vote with Councilmembers Gohman, Goerger, and Hontos voting against. Councilmember Berg then moved to approve the “Resolution Establishing a Complete Streets Policy for St. Cloud, Minnesota.” Councilmember Masters seconded the motion. Councilmember Berg followed with “calling the question.” City Attorney Matt Staehling explained that parliamentary procedure states that a motion to “call the question” is itself not debatable. The motion failed by a 3-4 vote with Gohman, Goerger, Hontos, and Johnson voting against. Discussion ensued. Hontos asked that the Council members remove emotion from this issue and instead request that staff provide further details to the policy that include design standards, regulations, costs and incentives, information on how park dedication fees coincide, and information on the CMBA concerns. Following his comments, Councilmember Hontos made a motion to “table” this issue for the reasons he listed. Councilmember Goerger seconded the motion. The motion carried by a vote of 4-3 with Councilmembers Berg, Libert, and Masters voting against.

**OPEN DISCUSSION AND ANNOUNCEMENTS:**

Councilmember Hontos said that he asked for costs of the marketing plan for the River’s Edge Convention Center at the Study Session held September 19, 2011. He had not received the information yet. City Administrator Mike Williams confirmed that the information would be provided.

**Adjournment:** There being no one else wishing to speak, Council President Libert adjourned the meeting at 7:20 p.m.

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City Council President John Libert

Respectfully submitted by

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Sandy Hilsgen, Recording Council Secretary